



FLOOR AMENDMENT NO. _____

BY: 

1 Amend C.S.S.B. No. 142 by striking all below the enacting
2 clause and substituting the following:

3 SECTION 1. Subsection (a), Section 5.006, Property Code, is
4 amended to read as follows:

5 (a) In an action based on breach of a restrictive covenant
6 pertaining to real property, the court shall allow to a prevailing
7 party ~~[who asserted the action]~~ reasonable attorney's fees in
8 addition to the party's costs and claim.

9 SECTION 2. Section 5.012, Property Code, is amended by
10 amending Subsection (a) and adding Subsections (a-1), (f), and (g)
11 to read as follows:

12 (a) A seller of residential real property that is subject to
13 membership in a property owners' association and that comprises not
14 more than one dwelling unit located in this state shall give to the
15 purchaser of the property a written notice that reads substantially
16 similar to the following:

17 NOTICE OF MEMBERSHIP IN PROPERTY OWNERS' ASSOCIATION CONCERNING THE
18 PROPERTY AT (street address) (name of residential community)

19 As a purchaser of property in the residential community in
20 which this property is located, you are obligated to be a member of
21 a property owners' association. Restrictive covenants governing
22 the use and occupancy of the property and all ~~[a]~~ dedicatory
23 instruments ~~[instrument]~~ governing the establishment, maintenance,
24 or ~~[and]~~ operation of this residential community have been or will
25 be recorded in the Real Property Records of the county in which the
26 property is located. Copies of the restrictive covenants and
27 dedicatory instruments ~~[instrument]~~ may be obtained from the county
28 clerk.

29 You are obligated to pay assessments to the property owners'

1 association. The amount of the assessments is subject to change.
2 Your failure to pay the assessments could result in enforcement of
3 the association's [a] lien on and the foreclosure of your property.

4 Section 207.003, Property Code, entitles an owner to receive
5 copies of any document that governs the establishment, maintenance,
6 or operation of a subdivision, including, but not limited to,
7 restrictions, bylaws, rules and regulations, and a resale
8 certificate from a property owners' association. A resale
9 certificate contains information including, but not limited to,
10 statements specifying the amount and frequency of regular
11 assessments and the style and cause number of lawsuits to which the
12 property owners' association is a party, other than lawsuits
13 relating to unpaid ad valorem taxes of an individual member of the
14 association. These documents must be made available to you by the
15 property owners' association or the association's agent on your
16 request.

17 Date: _____

18 Signature of Purchaser

19 (a-1) The second paragraph of the notice prescribed by
20 Subsection (a) must be in bold print and underlined.

21 (f) On the purchaser's request for a resale certificate from
22 the property owners' association or the association's agent, the
23 association or its agent shall promptly deliver a copy of the most
24 recent resale certificate issued for the property under Chapter 207
25 so long as the resale certificate was prepared not earlier than the
26 60th day before the date the resale certificate is delivered to the
27 purchaser and reflects any special assessments approved before and
28 due after the resale certificate is delivered. If a resale
29 certificate that meets the requirements of this subsection has not
30 been issued for the property, the seller shall request the
31 association or its agent to issue a resale certificate under

1 Chapter 207, and the association or its agent shall promptly
2 prepare and deliver a copy of the resale certificate to the
3 purchaser.

4 (g) The purchaser shall pay the fee to the property owners'
5 association or its agent for issuing the resale certificate unless
6 otherwise agreed by the purchaser and seller of the property. The
7 property owners' association may not process a payment for a resale
8 certificate requested under Chapter 207 until the certificate is
9 available for delivery. The association may not charge a fee if the
10 certificate is not provided in the time prescribed by Section
11 207.003(a).

12 SECTION 3. Section 51.002, Property Code, is amended by
13 adding Subsection (i) to read as follows:

14 (i) Notice served under Subsection (b)(3) or (d) must state
15 the name and address of the sender of the notice and contain a
16 statement that is conspicuous, printed in boldface or underlined
17 type, and substantially similar to the following: "Assert and
18 protect your rights as a member of the armed forces of the United
19 States. If you are or your spouse is serving on active military
20 duty, including active military duty as a member of the Texas
21 National Guard or the National Guard of another state or as a member
22 of a reserve component of the armed forces of the United States,
23 please send written notice of the active duty military service to
24 the sender of this notice immediately."

25 SECTION 4. Subsection (a), Section 51.015, Property Code,
26 is amended by adding Subdivision (1-a) to read as follows:

27 (1-a) "Assessment" and "assessments" have the
28 meanings assigned by Sections 82.113(a) and 209.002, as applicable.

29 SECTION 5. Subsection (b), Section 51.015, Property Code,
30 is amended to read as follows:

31 (b) This section applies only to an obligation:

1 (1) that is secured by a mortgage, deed of trust, or
2 other contract lien, including a lien securing payment of an
3 assessment or assessments, as applicable, on real property or
4 personal property that is a dwelling owned by a military
5 servicemember;

6 (2) that originates before the date on which the
7 servicemember's active duty military service commences; and

8 (3) for which the servicemember is still obligated.

9 SECTION 6. Subdivision (1), Section 202.001, Property Code,
10 is amended to read as follows:

11 (1) "Dedictory instrument" means each document
12 governing ~~[instrument covering]~~ the establishment, maintenance, or
13 ~~[and]~~ operation of a residential subdivision, planned unit
14 development, condominium or townhouse regime, or any similar
15 planned development. The term includes a declaration or similar
16 instrument subjecting real property to:

17 (A) restrictive covenants, bylaws, or similar
18 instruments governing the administration or operation of a property
19 owners' association;

20 (B) ~~[, to]~~ properly adopted rules and regulations
21 of the property owners' association; or

22 (C) ~~[, or to]~~ all lawful amendments to the
23 covenants, bylaws, instruments, rules, or regulations.

24 SECTION 7. Subsection (c), Section 202.004, Property Code,
25 is amended to read as follows:

26 (c) For a violation of a restrictive covenant of a property
27 owners' association that is a mixed-use master association that
28 existed before January 1, 1974, and that does not have the authority
29 under a dedicatory instrument or other governing document to impose
30 fines, a [A] court may assess civil damages [for the violation of a
31 ~~restrictive covenant]~~ in an amount not to exceed \$200 for each day

1 of the violation.

2 SECTION 8. Section 202.006, Property Code, is amended to
3 read as follows:

4 Sec. 202.006. PUBLIC RECORDS. (a) A property owners'
5 association shall file all ~~[the]~~ dedicatory instruments
6 ~~[instrument]~~ in the real property records of each county in which
7 the property to which the dedicatory instruments relate ~~[instrument~~
8 ~~relates]~~ is located.

9 (b) A dedicatory instrument has no effect until the
10 instrument is filed in accordance with this section.

11 SECTION 9. Chapter 202, Property Code, is amended by adding
12 Sections 202.011, 202.012, and 202.013 to read as follows:

13 Sec. 202.011. RIGHT OF FIRST REFUSAL PROHIBITED. (a) In
14 this section, "development period" means a period stated in a
15 declaration during which a declarant reserves:

16 (1) a right to facilitate the development,
17 construction, and marketing of the subdivision; and

18 (2) a right to direct the size, shape, and composition
19 of the subdivision.

20 (b) To the extent a restrictive covenant provides a right of
21 first refusal for the sale or lease of a residential unit or
22 residential lot in favor of the property owners' association or the
23 association's members, the covenant is void.

24 (c) This section does not apply to a restrictive covenant
25 that provides a right of first refusal in favor of a developer or
26 builder during the development period.

27 Sec. 202.012. REGULATION OF SOLAR ENERGY DEVICES. (a) In
28 this section, "solar energy device" has the meaning assigned by
29 Section 171.107, Tax Code.

30 (b) Except as otherwise provided by this section, a property
31 owners' association may not include or enforce a provision in a

dedicatory instrument that prohibits or restricts a property owner from installing a solar energy device.

(c) A provision that violates Subsection (b) is void.

(d) A property owners' association may include or enforce a provision in a dedicatory instrument that prohibits a solar energy device that:

(1) as adjudicated by a court:

(A) threatens the public health or safety; or

(B) violates a law;

(2) is located on property owned or maintained by the property owners' association;

(3) is located on property owned in common by the members of the property owners' association;

(4) is located in an area on the property owner's property other than:

(A) on the roof of the home or of another structure allowed under a dedicatory instrument; or

(B) in a fenced yard or patio owned and maintained by the property owner;

(5) if mounted on the roof of the home:

(A) extends higher than or beyond the roofline;

(B) is located in an area other than an area designated by the property owners' association, unless the alternate location increases the estimated annual energy production of the device, as determined by using a publicly available modeling tool provided by the National Renewable Energy Laboratory, by more than 10 percent above the energy production of the device if located in an area designated by the property owners' association;

(C) does not conform to the slope of the roof and has a top edge that is not parallel to the roofline; or

1 (D) has a frame, a support bracket, or visible
2 pipng or wiring that is not in a silver, bronze, or black tone
3 commonly available in the marketplace;

4 (6) if located in a fenced yard or patio, is taller
5 than the fence line;

6 (7) as installed, voids material warranties; or

7 (8) was installed without prior approval by the
8 property owners' association or by a committee created in a
9 dedicatory instrument for such purposes that provides decisions
10 within a reasonable period or within a period specified in the
11 dedicatory instrument.

12 (e) A property owners' association or the association's
13 architectural review committee may not withhold approval for
14 installation of a solar energy device if the provisions of the
15 dedicatory instruments, to the extent authorized by this section,
16 are met or exceeded, unless the association or committee, as
17 applicable, determines in writing that placement of the device as
18 proposed by the property owner constitutes a condition that
19 substantially interferes with the use and enjoyment of land by
20 causing unreasonable discomfort or annoyance to persons of ordinary
21 sensibilities.

22 Sec. 202.013. RESTRICTIONS REQUIRING CAPITAL IMPROVEMENTS.

23 (a) A dedicatory instrument may not be amended to retroactively
24 require a person who owns property subject to the dedicatory
25 instrument at the time the amendment is adopted to make a capital
26 improvement to the owner's property that is not required before the
27 amendment.

28 (b) For the purposes of this section, "capital improvement"
29 means items such as additional tree plantings, additional sodding,
30 fence construction, hardscape installation, new construction, or
31 any similar capital improvement. The term does not include repair

1 or maintenance of existing improvements or the removal of
2 conditions that are in violation of a dedicatory instrument.

3 SECTION 10. Subsections (a), (b), and (c), Section 207.003,
4 Property Code, are amended to read as follows:

5 (a) Not later than the 10th day after the date a written
6 request for subdivision information is received from an owner,
7 owner's agent, or title insurance company or its agent acting on
8 behalf of the owner, the property owners' association shall deliver
9 to the owner, owner's agent, or title insurance company or its
10 agent:

11 (1) a current copy of the restrictions applying to the
12 subdivision;

13 (2) a current copy of the bylaws and rules of the
14 property owners' association; and

15 (3) a resale certificate prepared not earlier than the
16 60th day before the date the certificate is delivered that complies
17 with Subsection (b).

18 (b) A resale certificate under Subsection (a) must contain:

19 (1) a statement of any right of first refusal, other
20 than a right of first refusal that is prohibited by statute, and any
21 ~~[or]~~ other restraint contained in the restrictions or restrictive
22 covenants that restricts the owner's right to transfer the owner's
23 property;

24 (2) the frequency and amount of any regular
25 assessments;

26 (3) the amount and purpose of any special assessment
27 that has been approved before and is due after ~~[the date]~~ the resale
28 certificate is delivered ~~[prepared]~~;

29 (4) the total of all amounts due and unpaid to the
30 property owners' association that are attributable to the owner's
31 property;

1 (5) capital expenditures, if any, approved by the
2 property owners' association for the property owners' association's
3 current fiscal year;

4 (6) the amount of reserves, if any, for capital
5 expenditures;

6 (7) the property owners' association's current
7 operating budget and balance sheet;

8 (8) the total of any unsatisfied judgments against the
9 property owners' association;

10 (9) the style and cause number of any pending lawsuit
11 in which the property owners' association is a party, other than a
12 lawsuit relating to unpaid ad valorem taxes of an individual member
13 of the association [~~defendant~~];

14 (10) a copy of a certificate of insurance showing the
15 property owners' association's property and liability insurance
16 relating to the common areas and common facilities;

17 (11) a description of any conditions on the owner's
18 property that the property owners' association board has actual
19 knowledge are in violation of the restrictions applying to the
20 subdivision or the bylaws or rules of the property owners'
21 association;

22 (12) a summary or copy of notices received by the
23 property owners' association from any governmental authority
24 regarding health or housing code violations existing on the
25 preparation date of the certificate relating to the owner's
26 property or any common areas or common facilities owned or leased by
27 the property owners' association;

28 (13) the amount of any administrative transfer fee
29 charged by the property owners' association for a change of
30 ownership of property in the subdivision;

31 (14) the name, mailing address, and telephone number

1 of the property owners' association's managing agent, if any; ~~and~~

2 (15) a statement indicating whether the restrictions
3 allow foreclosure of a property owners' association's lien on the
4 owner's property for failure to pay assessments; and

5 (16) a statement of all fees associated with the
6 transfer of ownership, including a description of each fee, to whom
7 each fee is paid, and the amount of each fee.

8 (c) A property owners' association may charge a reasonable
9 fee to assemble, copy, and deliver the information required by this
10 section and may charge a reasonable fee to prepare and deliver an
11 update of a resale certificate under Subsection (f). A purchaser
12 requesting a resale certificate under Section 5.012 or on whose
13 behalf the resale certificate is requested shall pay the fees
14 charged under this subsection unless otherwise agreed by the
15 purchaser and seller of the property.

16 SECTION 11. Chapter 207, Property Code, is amended by
17 adding Section 207.006 to read as follows:

18 Sec. 207.006. ONLINE SUBDIVISION INFORMATION REQUIRED. A
19 property owners' association shall make dedicatory instruments
20 relating to the association or subdivision and filed in the county
21 deed records available on a website if the association has, or a
22 management company on behalf of the association maintains, a
23 publicly accessible website.

24 SECTION 12. Section 209.003, Property Code, is amended by
25 adding Subsections (e) and (f) to read as follows:

26 (e) The following provisions of this chapter do not apply to
27 a property owners' association that is a mixed-use master
28 association that existed before January 1, 1974, and that does not
29 have the authority under a dedicatory instrument or other governing
30 document to impose fines:

31 (1) Section 209.005(c);

1 (2) Section 209.0056;

2 (3) Section 209.0057;

3 (4) Section 209.0058;

4 (5) Section 209.00592; and

5 (6) Section 209.0062.

6 (f) The following provisions of this chapter do not apply to
7 a property owners' association for owners of residential property
8 in a development that includes a timeshare association subject to
9 Chapter 221 and in which residential property owners share
10 amenities with the timeshare interest owners:

11 (1) Section 209.0041;

12 (2) Section 209.0059;

13 (3) Section 209.00591; and

14 (4) Section 209.00593.

15 SECTION 13. Chapter 209, Property Code, is amended by
16 adding Section 209.0041 to read as follows:

17 Sec. 209.0041. ADOPTION OR AMENDMENT OF CERTAIN DEDICATORY
18 INSTRUMENTS. (a) This section applies to a residential
19 subdivision in which property owners are subject to mandatory
20 membership in a property owners' association.

21 (b) This section does not apply to a property owners'
22 association that is subject to Chapter 552, Government Code, by
23 application of Section 552.0036, Government Code.

24 (c) This section does not apply to the amendment of a
25 declaration during a development period, as defined by Section
26 202.011.

27 (d) This section applies to a dedicatory instrument
28 regardless of the date on which the dedicatory instrument was
29 created.

30 (e) This section supersedes any contrary requirement in a
31 dedicatory instrument.

1 (f) To the extent of any conflict with another provision of
2 this title, this section prevails.

3 (g) Except as provided by this subsection, a declaration may
4 be amended only by a vote of 67 percent of the total votes allocated
5 to property owners in the property owners' association, in addition
6 to any governmental approval required by law. If the declaration
7 contains a lower percentage, the percentage in the declaration
8 controls.

9 (h) A bylaw may not be amended to conflict with the
10 declaration.

11 SECTION 14. Section 209.005, Property Code, is amended to
12 read as follows:

13 Sec. 209.005. ASSOCIATION RECORDS. (a) Except as provided
14 by Subsection (b), this section applies to all property owners'
15 associations and controls over other law not specifically
16 applicable to a property owners' association.

17 (b) This section does not apply to a property owners'
18 association that is subject to Chapter 552, Government Code, by
19 application of Section 552.0036, Government Code.

20 (c) Notwithstanding a provision in a dedicatory instrument,
21 a [A] property owners' association shall make the books and records
22 of the association, including financial records, open to and
23 reasonably available for examination by [to] an owner, or a person
24 designated in a writing signed by the owner as the owner's agent,
25 attorney, or certified public accountant, in accordance with this
26 section. An owner is entitled to obtain from the association copies
27 of information contained in the books and records [Section B,
28 Article 2.23, Texas Non-Profit Corporation Act (Article 1396-2.23,
29 Vernon's Texas Civil Statutes)].

30 (d) Except as provided by this subsection, an [(a-1) A
31 property owners' association described by Section 552.0036(2),

1 ~~Government Code, shall make the books and records of the~~
2 ~~association, including financial records, reasonably available to~~
3 ~~any person requesting access to the books or records in accordance~~
4 ~~with Chapter 552, Government Code. Subsection (a) does not apply to~~
5 ~~a property owners' association to which this subsection applies.~~

6 ~~[(b) An]~~ attorney's files and records relating to the
7 property owners' association, excluding invoices requested by an
8 owner under Section 209.008(d), are not[+]

9 ~~[(1)]~~ records of the association and are not[+]

10 ~~[(2)]~~ subject to inspection by the owner[+] or

11 ~~[(3) subject to]~~ production in a legal proceeding. If
12 a document in an attorney's files and records relating to the
13 association would be responsive to a legally authorized request to
14 inspect or copy association documents, the document shall be
15 produced by using the copy from the attorney's files and records if
16 the association has not maintained a separate copy of the document.
17 This subsection does not require production of a document that
18 constitutes attorney work product or that is privileged as an
19 attorney-client communication.

20 (e) An owner or the owner's authorized representative
21 described by Subsection (c) must submit a written request for
22 access or information under Subsection (c) by certified mail, with
23 sufficient detail describing the property owners' association's
24 books and records requested, to the mailing address of the
25 association or authorized representative as reflected on the most
26 current management certificate filed under Section 209.004. The
27 request must contain an election either to inspect the books and
28 records before obtaining copies or to have the property owners'
29 association forward copies of the requested books and records and:

30 (1) if an inspection is requested, the association, on
31 or before the 10th business day after the date the association

1 receives the request, shall send written notice of dates during
2 normal business hours that the owner may inspect the requested
3 books and records to the extent those books and records are in the
4 possession, custody, or control of the association; or

5 (2) if copies of identified books and records are
6 requested, the association shall, to the extent those books and
7 records are in the possession, custody, or control of the
8 association, produce the requested books and records for the
9 requesting party on or before the 10th business day after the date
10 the association receives the request, except as otherwise provided
11 by this section.

12 (f) If the property owners' association is unable to produce
13 the books or records requested under Subsection (e) on or before the
14 10th business day after the date the association receives the
15 request, the association must provide to the requestor written
16 notice that:

17 (1) informs the requestor that the association is
18 unable to produce the information on or before the 10th business day
19 after the date the association received the request; and

20 (2) states a date by which the information will be sent
21 or made available for inspection to the requesting party that is not
22 later than the 15th business day after the date notice under this
23 subsection is given.

24 (g) If an inspection is requested or required, the
25 inspection shall take place at a mutually agreed on time during
26 normal business hours, and the requesting party shall identify the
27 books and records for the property owners' association to copy and
28 forward to the requesting party.

29 (h) A property owners' association may produce books and
30 records requested under this section in hard copy, electronic, or
31 other format reasonably available to the association.

1 (i) A property owners' association board must adopt a
2 records production and copying policy that prescribes the costs the
3 association will charge for the compilation, production, and
4 reproduction of information requested under this section. The
5 prescribed charges may include all reasonable costs of materials,
6 labor, and overhead but may not exceed costs that would be
7 applicable for an item under 1 T.A.C. Section 70.3. The policy
8 required by this subsection must be recorded as a dedicatory
9 instrument in accordance with Section 202.006. An association may
10 not charge an owner for the compilation, production, or
11 reproduction of information requested under this section unless the
12 policy prescribing those costs has been recorded as required by
13 this subsection. An owner is responsible for costs related to the
14 compilation, production, and reproduction of the requested
15 information in the amounts prescribed by the policy adopted under
16 this subsection. The association may require advance payment of
17 the estimated costs of compilation, production, and reproduction of
18 the requested information. If the estimated costs are lesser or
19 greater than the actual costs, the association shall submit a final
20 invoice to the owner on or before the 30th business day after the
21 date the information is delivered. If the final invoice includes
22 additional amounts due from the owner, the additional amounts, if
23 not reimbursed to the association before the 30th business day
24 after the date the invoice is sent to the owner, may be added to the
25 owner's account as an assessment. If the estimated costs exceeded
26 the final invoice amount, the owner is entitled to a refund, and the
27 refund shall be issued to the owner not later than the 30th business
28 day after the date the invoice is sent to the owner.

29 (j) A property owners' association must estimate costs
30 under this section using amounts prescribed by the policy adopted
31 under Subsection (i).

1 (k) Except as provided by Subsection (l) and to the extent
2 the information is provided in the meeting minutes, the property
3 owners' association is not required to release or allow inspection
4 of any books or records that identify the dedicatory instrument
5 violation history of an individual owner of an association, an
6 owner's personal financial information, including records of
7 payment or nonpayment of amounts due the association, an owner's
8 contact information, other than the owner's address, or information
9 related to an employee of the association, including personnel
10 files. Information may be released in an aggregate or summary
11 manner that would not identify an individual property owner.

12 (l) The books and records described by Subsection (k) shall
13 be released or made available for inspection if:

14 (1) the express written approval of the owner whose
15 records are the subject of the request for inspection is provided to
16 the property owners' association; or

17 (2) a court orders the release of the books and records
18 or orders that the books and records be made available for
19 inspection.

20 (m) A property owners' association composed of more than 14
21 lots shall adopt and comply with a document retention policy that
22 includes, at a minimum, the following requirements:

23 (1) certificates of formation, bylaws, restrictive
24 covenants, and all amendments to the certificates of formation,
25 bylaws, and covenants shall be retained permanently;

26 (2) financial books and records shall be retained for
27 seven years;

28 (3) account records of current owners shall be
29 retained for five years;

30 (4) contracts with a term of one year or more shall be
31 retained for four years after the expiration of the contract term;

1 (5) minutes of meetings of the owners and the board
2 shall be retained for seven years; and

3 (6) tax returns and audit records shall be retained
4 for seven years.

5 (n) A member of a property owners' association who is denied
6 access to or copies of association books or records to which the
7 member is entitled under this section may file a petition with the
8 justice of the peace of a justice precinct in which all or part of
9 the property that is governed by the association is located
10 requesting relief in accordance with this subsection. If the
11 justice of the peace finds that the member is entitled to access to
12 or copies of the records, the justice of the peace may grant one or
13 more of the following remedies:

14 (1) a judgment ordering the property owners'
15 association to release or allow access to the books or records;

16 (2) a judgment against the property owners'
17 association for court costs and attorney's fees incurred in
18 connection with seeking a remedy under this section; or

19 (3) a judgment authorizing the owner or the owner's
20 assignee to deduct the amounts awarded under Subdivision (2) from
21 any future regular or special assessments payable to the property
22 owners' association.

23 (o) If the property owners' association prevails in an
24 action under Subsection (n), the association is entitled to a
25 judgment for court costs and attorney's fees incurred by the
26 association in connection with the action.

27 (p) On or before the 10th business day before the date a
28 person brings an action against a property owners' association
29 under this section, the person must send written notice to the
30 association of the person's intent to bring the action. The notice
31 must:

1 (1) be sent certified mail, return receipt requested,
2 or delivered by the United States Postal Service with signature
3 confirmation service to the mailing address of the association or
4 authorized representative as reflected on the most current
5 management certificate filed under Section 209.004; and

6 (2) describe with sufficient detail the books and
7 records being requested.

8 (q) For the purposes of this section, "business day" means a
9 day other than Saturday, Sunday, or a state or federal holiday.

10 SECTION 15. Chapter 209, Property Code, is amended by
11 adding Sections 209.0051, 209.0056, 209.0057, 209.0058, 209.0059,
12 209.00591, 209.00592, and 209.00593 to read as follows:

13 Sec. 209.0051. OPEN BOARD MEETINGS. (a) This section does
14 not apply to a property owners' association that is subject to
15 Chapter 551, Government Code, by application of Section 551.0015,
16 Government Code.

17 (b) In this section, "board meeting" means a deliberation
18 between a quorum of the voting board of the property owners'
19 association, or between a quorum of the voting board and another
20 person, during which property owners' association business is
21 considered and the board takes formal action. The term does not
22 include the gathering of a quorum of the board at a social function
23 unrelated to the business of the association or the attendance by a
24 quorum of the board at a regional, state, or national convention,
25 ceremonial event, or press conference, if formal action is not
26 taken and any discussion of association business is incidental to
27 the social function, convention, ceremonial event, or press
28 conference.

29 (c) Regular and special board meetings must be open to
30 owners, subject to the right of the board to adjourn a board meeting
31 and reconvene in closed executive session to consider actions

1 involving personnel, pending or threatened litigation, contract
2 negotiations, enforcement actions, confidential communications
3 with the property owners' association's attorney, matters involving
4 the invasion of privacy of individual owners, or matters that are to
5 remain confidential by request of the affected parties and
6 agreement of the board. Following an executive session, any
7 decision made in the executive session must be summarized orally
8 and placed in the minutes, in general terms, without breaching the
9 privacy of individual owners, violating any privilege, or
10 disclosing information that was to remain confidential at the
11 request of the affected parties. The oral summary must include a
12 general explanation of expenditures approved in executive session.

13 (c-1) Except for a meeting held by electronic or telephonic
14 means under Subsection (h), a board meeting must be held in a county
15 in which all or part of the property in the subdivision is located
16 or in a county adjacent to that county.

17 (d) The board shall keep a record of each regular or special
18 board meeting in the form of written minutes of the meeting. The
19 board shall make meeting records, including approved minutes,
20 available to a member for inspection and copying on the member's
21 written request to the property owners' association's managing
22 agent at the address appearing on the most recently filed
23 management certificate or, if there is not a managing agent, to the
24 board.

25 (e) Members shall be given notice of the date, hour, place,
26 and general subject of a regular or special board meeting,
27 including a general description of any matter to be brought up for
28 deliberation in executive session. The notice shall be:

29 (1) mailed to each property owner not later than the
30 10th day or earlier than the 60th day before the date of the
31 meeting; or

1 (2) provided at least 72 hours before the start of the
2 meeting by:

3 (A) posting the notice in a conspicuous manner
4 reasonably designed to provide notice to property owners'
5 association members:

6 (i) in a place located on the association's
7 common property or, with the property owner's consent, on other
8 conspicuously located privately owned property within the
9 subdivision; or

10 (ii) on any Internet website maintained by
11 the association or other Internet media; and

12 (B) sending the notice by e-mail to each owner
13 who has registered an e-mail address with the association.

14 (f) It is an owner's duty to keep an updated e-mail address
15 registered with the property owners' association under Subsection
16 (e)(2)(B).

17 (g) If the board recesses a regular or special board meeting
18 to continue the following regular business day, the board is not
19 required to post notice of the continued meeting if the recess is
20 taken in good faith and not to circumvent this section. If a
21 regular or special board meeting is continued to the following
22 regular business day, and on that following day the board continues
23 the meeting to another day, the board shall give notice of the
24 continuation in at least one manner prescribed by Subsection
25 (e)(2)(A) within two hours after adjourning the meeting being
26 continued.

27 (h) A board may meet by any method of communication,
28 including electronic and telephonic, without prior notice to owners
29 under Subsection (e), if each director may hear and be heard by
30 every other director, or the board may take action by unanimous
31 written consent to consider routine and administrative matters or a

1 reasonably unforeseen emergency or urgent necessity that requires
2 immediate board action. Any action taken without notice to owners
3 under Subsection (e) must be summarized orally, including an
4 explanation of any known actual or estimated expenditures approved
5 at the meeting, and documented in the minutes of the next regular or
6 special board meeting. The board may not, without prior notice to
7 owners under Subsection (e), consider or vote on:

- 8 (1) fines;
- 9 (2) damage assessments;
- 10 (3) initiation of foreclosure actions;
- 11 (4) initiation of enforcement actions, excluding
12 temporary restraining orders or violations involving a threat to
13 health or safety;
- 14 (5) increases in assessments;
- 15 (6) levying of special assessments;
- 16 (7) appeals from a denial of architectural control
17 approval; or
- 18 (8) a suspension of a right of a particular owner
19 before the owner has an opportunity to attend a board meeting to
20 present the owner's position, including any defense, on the issue.

21 (i) This section applies to a meeting of a property owners'
22 association board during the development period, as defined by
23 Section 202.011, only if the meeting is conducted for the purpose
24 of:

- 25 (1) adopting or amending the governing documents,
26 including declarations, bylaws, rules, and regulations of the
27 association;
- 28 (2) increasing the amount of regular assessments of
29 the association or adopting or increasing a special assessment;
- 30 (3) electing non-developer board members of the
31 association or establishing a process by which those members are

1 elected; or

2 (4) changing the voting rights of members of the
3 association.

4 Sec. 209.0056. NOTICE OF ELECTION OR ASSOCIATION VOTE.

5 (a) Not later than the 10th day or earlier than the 60th day before
6 the date of an election or vote, a property owners' association
7 shall give written notice of the election or vote to:

8 (1) each owner of property in the property owners'
9 association, for purposes of an association-wide election or vote;
10 or

11 (2) each owner of property in the property owners'
12 association entitled under the dedicatory instruments to vote in a
13 particular representative election, for purposes of a vote that
14 involves election of representatives of the association who are
15 vested under the dedicatory instruments of the property owners'
16 association with the authority to elect or appoint board members of
17 the property owners' association.

18 (b) This section supersedes any contrary requirement in a
19 dedicatory instrument.

20 (c) This section does not apply to a property owners'
21 association that is subject to Chapter 552, Government Code, by
22 application of Section 552.0036, Government Code.

23 Sec. 209.0057. RECOUNT OF VOTES. (a) This section does
24 not apply to a property owners' association that is subject to
25 Chapter 552, Government Code, by application of Section 552.0036,
26 Government Code.

27 (b) Any owner may, not later than the 15th day after the date
28 of the meeting at which the election was held, require a recount of
29 the votes. A demand for a recount must be submitted in writing
30 either:

31 (1) by certified mail, return receipt requested, or by

1 delivery by the United States Postal Service with signature
2 confirmation service to the property owners' association's mailing
3 address as reflected on the most current management certificate
4 filed under Section 209.004; or

5 (2) in person to the property owners' association's
6 managing agent as reflected on the most current management
7 certificate filed under Section 209.004 or to the address to which
8 absentee and proxy ballots are mailed.

9 (c) The property owners' association shall, at the expense
10 of the owner requesting the recount, retain for the purpose of
11 performing the recount, the services of a person qualified to
12 tabulate votes under this subsection. The association shall enter
13 into a contract for the services of a person who:

14 (1) is not a member of the association or related to a
15 member of the association board within the third degree by
16 consanguinity or affinity, as determined under Chapter 573,
17 Government Code; and

18 (2) is:

19 (A) a current or former:

20 (i) county judge;

21 (ii) county elections administrator;

22 (iii) justice of the peace; or

23 (iv) county voter registrar; or

24 (B) a person agreed on by the association and the
25 persons requesting the recount.

26 (d) Any recount under Subsection (b) must be performed on or
27 before the 30th day after the date of receipt of a request and
28 payment for a recount in accordance with Subsections (b) and (c).
29 If the recount changes the results of the election, the property
30 owners' association shall reimburse the requesting owner for the
31 cost of the recount. The property owners' association shall

1 provide the results of the recount to each owner who requested the
2 recount. Any action taken by the board in the period between the
3 initial election vote tally and the completion of the recount is not
4 affected by any recount.

5 Sec. 209.0058. BALLOTS. (a) Any vote cast in an election
6 or vote by a member of a property owners' association must be in
7 writing and signed by the member.

8 (b) Electronic votes cast under Section 209.00592
9 constitute written and signed ballots.

10 (c) In an association-wide election, written and signed
11 ballots are not required for uncontested races.

12 Sec. 209.0059. RIGHT TO VOTE. (a) A provision in a
13 dedicatory instrument that would disqualify a property owner from
14 voting in a property owners' association election of board members
15 or on any matter concerning the rights or responsibilities of the
16 owner is void.

17 (b) This section does not apply to a property owners'
18 association that is subject to Chapter 552, Government Code, by
19 application of Section 552.0036, Government Code.

20 Sec. 209.00591. BOARD MEMBERSHIP. (a) Except as provided
21 by this section, a provision in a dedicatory instrument that
22 restricts a property owner's right to run for a position on the
23 board of the property owners' association is void.

24 (b) If a board is presented with written, documented
25 evidence from a database or other record maintained by a
26 governmental law enforcement authority that a board member has been
27 convicted of a felony or crime involving moral turpitude, the board
28 member is immediately ineligible to serve on the board of the
29 property owners' association, automatically considered removed
30 from the board, and prohibited from future service on the board.

31 (c) The declaration may provide for a period of declarant

1 control of the association during which a declarant, or persons
2 designated by the declarant, may appoint and remove board members
3 and the officers of the association, other than board members or
4 officers elected by members of the property owners' association.
5 Regardless of the period of declarant control provided by the
6 declaration, on or before the 120th day after the date 75 percent of
7 the lots that may be created and made subject to the declaration are
8 conveyed to owners other than a declarant, at least one-third of the
9 board members must be elected by owners other than the declarant.
10 If the declaration does not include the number of lots that may be
11 created and made subject to the declaration, at least one-third of
12 the board members must be elected by owners other than the declarant
13 not later than the 10th anniversary of the date the declaration was
14 recorded.

15 Sec. 209.00592. VOTING; QUORUM. (a) The voting rights of
16 an owner may be cast or given:

17 (1) in person or by proxy at a meeting of the property
18 owners' association;

19 (2) by absentee ballot in accordance with this
20 section;

21 (3) by electronic ballot in accordance with this
22 section; or

23 (4) by any method of representative or delegated
24 voting provided by a dedicatory instrument.

25 (b) An absentee or electronic ballot:

26 (1) may be counted as an owner present and voting for
27 the purpose of establishing a quorum only for items appearing on the
28 ballot;

29 (2) may not be counted, even if properly delivered, if
30 the owner attends any meeting to vote in person, so that any vote
31 cast at a meeting by a property owner supersedes any vote submitted

1 by absentee or electronic ballot previously submitted for that
2 proposal; and

3 (3) may not be counted on the final vote of a proposal
4 if the motion was amended at the meeting to be different from the
5 exact language on the absentee or electronic ballot.

6 (c) A solicitation for votes by absentee ballot must
7 include:

8 (1) an absentee ballot that contains each proposed
9 action and provides an opportunity to vote for or against each
10 proposed action;

11 (2) instructions for delivery of the completed
12 absentee ballot, including the delivery location; and

13 (3) the following language: "By casting your vote via
14 absentee ballot you will forgo the opportunity to consider and vote
15 on any action from the floor on these proposals, if a meeting is
16 held. This means that if there are amendments to these proposals
17 your votes will not be counted on the final vote on these measures.
18 If you desire to retain this ability, please attend any meeting in
19 person. You may submit an absentee ballot and later choose to
20 attend any meeting in person, in which case any in-person vote will
21 prevail."

22 (d) For the purposes of this section, "electronic ballot"
23 means a ballot:

24 (1) given by:

25 (A) e-mail;

26 (B) facsimile; or

27 (C) posting on an Internet website;

28 (2) for which the identity of the property owner
29 submitting the ballot can be confirmed; and

30 (3) for which the property owner may receive a receipt
31 of the electronic transmission and receipt of the owner's ballot.

1 (e) If an electronic ballot is posted on an Internet
2 website, a notice of the posting shall be sent to each owner that
3 contains instructions on obtaining access to the posting on the
4 website.

5 (f) This section supersedes any contrary provision in a
6 dedicatory instrument.

7 (g) This section does not apply to a property owners'
8 association that is subject to Chapter 552, Government Code, by
9 application of Section 552.0036, Government Code.

10 Sec. 209.00593. ELECTION OF BOARD MEMBERS.

11 (a) Notwithstanding any provision in a dedicatory instrument, any
12 board member whose term has expired must be elected by owners who
13 are members of the property owners' association. A board member may
14 be appointed by the board only to fill a vacancy caused by a
15 resignation, death, or disability. A board member appointed to
16 fill a vacant position shall serve the unexpired term of the
17 predecessor board member.

18 (b) The board of a property owners' association may amend
19 the bylaws of the property owners' association to provide for
20 elections to be held as required by Subsection (a).

21 (c) The appointment of a board member in violation of this
22 section is void.

23 (d) This section does not apply to the appointment of a
24 board member during a development period, as defined by Section
25 202.011.

26 (e) This section does not apply to a representative board
27 whose members or delegates are elected or appointed by
28 representatives of a property owners' association who are elected
29 by owner members of a property owners' association.

30 SECTION 16. Subsection (b), Section 209.006, Property Code,
31 is amended to read as follows:

1 (b) The notice must:

2 (1) describe the violation or property damage that is
3 the basis for the suspension action, charge, or fine and state any
4 amount due the association from the owner; and

5 (2) inform the owner that the owner:

6 (A) is entitled to a reasonable period to cure
7 the violation and avoid the fine or suspension unless the owner was
8 given notice and a reasonable opportunity to cure a similar
9 violation within the preceding six months; and

10 (B) may request a hearing under Section 209.007
11 on or before the 30th day after the date notice was delivered to the
12 owner [~~receives the notice~~].

13 SECTION 17. Chapter 209, Property Code, is amended by
14 adding Sections 209.0061, 209.0062, 209.0063, and 209.0064 to read
15 as follows:

16 Sec. 209.0061. ASSESSMENT OF FINES. (a) A fine assessed
17 by the property owners' association must be reasonable in the
18 context of the nature and frequency of the violation and the effect
19 of the violation on the subdivision as a whole. If the association
20 allows fines for a continuing violation to accumulate against a lot
21 or an owner, the association must establish a reasonable maximum
22 fine amount for a continuing violation at which point the total fine
23 amount is capped.

24 (b) If a lot occupant other than the owner violates a
25 provision of the dedicatory instrument, the property owners'
26 association, in addition to exercising any of the association's
27 powers against the owner, may assess a fine directly against the
28 nonowner occupant in the same manner as provided for an owner but
29 may not require payment from both the owner and a nonowner occupant
30 for the same violation.

31 (c) If the property owners' association assesses a fine

1 against a nonowner occupant under this section, the notice
2 provisions of Section 209.006 and the hearing provisions of Section
3 209.007 apply to the nonowner occupant in the same manner as those
4 provisions apply to an owner.

5 Sec. 209.0062. ALTERNATIVE PAYMENT SCHEDULE FOR CERTAIN
6 ASSESSMENTS. (a) A property owners' association composed of more
7 than 14 lots shall adopt reasonable guidelines to establish an
8 alternative payment schedule by which an owner may make partial
9 payments to the property owners' association for delinquent regular
10 or special assessments or any other amount owed to the association
11 without accruing additional monetary penalties. For purposes of
12 this section, monetary penalties do not include reasonable costs
13 associated with administering the payment plan or interest.

14 (b) The minimum term for a payment plan offered by a
15 property owners' association is three months.

16 (c) A property owners' association is not required to enter
17 into a payment plan with an owner who failed to honor the terms of a
18 previous payment plan during the two years following the owner's
19 default under the previous payment plan.

20 (d) A property owners' association shall file the
21 association's guidelines under this section in the real property
22 records of each county in which the subdivision is located.

23 (e) A property owners' association's failure to file as
24 required by this section the association's guidelines in the real
25 property records of each county in which the subdivision is located
26 does not prohibit a property owner from receiving an alternative
27 payment schedule by which the owner may make partial payments to the
28 property owners' association for delinquent regular or special
29 assessments or any other amount owed to the association without
30 accruing additional monetary penalties, as defined by Subsection
31 (a).

1 Sec. 209.0063. PRIORITY OF PAYMENTS. (a) Except as
2 provided by Subsection (b), a payment received by a property
3 owners' association from the owner shall be applied to the owner's
4 debt in the following order of priority:

5 (1) any delinquent assessment;

6 (2) any current assessment;

7 (3) any attorney's fees or third party collection
8 costs incurred by the association associated solely with
9 assessments or any other charge that could provide the basis for
10 foreclosure;

11 (4) any attorney's fees incurred by the association
12 that are not subject to Subdivision (3);

13 (5) any fines assessed by the association; and

14 (6) any other amount owed to the association.

15 (b) If, at the time the property owners' association
16 receives a payment from a property owner, the owner is in default
17 under a payment plan entered into with the association:

18 (1) the association is not required to apply the
19 payment in the order of priority specified by Subsection (a); and

20 (2) in applying the payment, a fine assessed by the
21 association may not be given priority over any other amount owed to
22 the association.

23 Sec. 209.0064. THIRD PARTY COLLECTIONS. (a) In this
24 section:

25 (1) "Collection agent" means a debt collector, as
26 defined by Section 803 of the federal Fair Debt Collection
27 Practices Act (15 U.S.C. Section 1692a).

28 (2) "Financial institution" means:

29 (A) a bank, savings bank, or savings and loan
30 association or a wholly owned subsidiary or affiliate of a bank,
31 savings bank, or savings and loan association;

1 (B) a state or federal credit union or a wholly
2 owned subsidiary, affiliate, or credit union service organization
3 of a state or federal credit union; or

4 (C) an insurance company licensed or authorized
5 to engage in business in this state under the Insurance Code.

6 (b) An owner is not liable for fees of a collection agent
7 retained by the property owners' association or the association's
8 agent unless the association first provides written notice to the
9 owner by certified mail, return receipt requested, or by the United
10 States Postal Service with signature confirmation service or
11 delivery confirmation, that:

12 (1) specifies each delinquent amount and the total
13 amount of the payment required to make the account current;

14 (2) describes the options the owner has to avoid
15 liability for collection agent fees or other costs related to
16 collection of those amounts, including information regarding
17 availability of a payment plan through the association; and

18 (3) provides a period of at least 30 days for the owner
19 to cure the delinquency before further action is taken by the
20 association.

21 (c) An owner is not liable for fees of a collection agent
22 retained by the property owners' association or the association's
23 agent if:

24 (1) the obligation for payment by the association or
25 the association's agent to the collection agent for fees or costs
26 associated with a collection action is in any way dependent or
27 contingent on amounts recovered; or

28 (2) the payment agreement between the association or
29 the association's agent and the collection agent does not require
30 payment by the association or the association's agent of all fees to
31 the collection agent for the action undertaken by the collection

1 agent.

2 (d) The agreement between the property owners' association
3 or the association's agent and a collection agent may not prohibit
4 the owner from contacting the association board or the
5 association's managing agent regarding the owner's delinquency.

6 (e) A property owners' association may not sell or otherwise
7 transfer any interest in the association's accounts receivables for
8 a purpose other than as collateral for a loan to the association by
9 a financial institution.

10 SECTION 18. Section 209.009, Property Code, is amended to
11 read as follows:

12 Sec. 209.009. FORECLOSURE SALE PROHIBITED IN CERTAIN
13 CIRCUMSTANCES. A property owners' association may not foreclose a
14 property owners' association's assessment lien if the debt securing
15 the lien consists solely of:

16 (1) fines assessed by the association; ~~[or]~~

17 (2) attorney's fees incurred by the association solely
18 associated with fines assessed by the association; or

19 (3) amounts added to the owner's account as an
20 assessment under Section 209.005(i).

21 SECTION 19. Chapter 209, Property Code, is amended by
22 adding Sections 209.0091, 209.0092, and 209.0093 to read as
23 follows:

24 Sec. 209.0091. JUDICIAL FORECLOSURE REQUIRED. (a) Except
25 as provided by Subsection (c) and subject to Section 209.009, a
26 property owners' association may not foreclose a property owners'
27 association assessment lien unless the association first obtains a
28 court order in an application for expedited foreclosure under the
29 rules adopted by the supreme court under Subsection (b). A property
30 owners' association may use the procedure described by this
31 subsection to foreclose any lien described by the association's

1 dedicatory instruments.

2 **(b) The supreme court, as an exercise of the court's**
3 **authority under Section 74.024, Government Code, shall adopt rules**
4 **establishing expedited foreclosure proceedings for use by a**
5 **property owners' association in foreclosing an assessment lien of**
6 **the association. The rules adopted under this subsection must be**
7 **substantially similar to the rules adopted by the supreme court**
8 **under Section 50(r), Article XVI, Texas Constitution.**

9 **(c) Expedited foreclosure is not required under this**
10 **section if the owner of the property that is subject to foreclosure**
11 **agrees in writing at the time the foreclosure is sought to waive**
12 **expedited foreclosure under this section. A waiver under this**
13 **subsection may not be required as a condition of the transfer of**
14 **title to real property.**

15 **Sec. 209.0092. REMOVAL OR ADOPTION OF FORECLOSURE**
16 **AUTHORITY. A provision granting a right to foreclose a lien on real**
17 **property for unpaid amounts due to a property owners' association**
18 **may be removed from a dedicatory instrument or adopted in a**
19 **dedicatory instrument by a vote of at least 67 percent of the total**
20 **votes allocated to property owners in the property owners'**
21 **association. Owners holding at least 10 percent of all voting**
22 **interests in the property owners' association may petition the**
23 **association and require a special meeting to be called for the**
24 **purposes of taking a vote for the purposes of this section.**

25 **Sec. 209.0093. ASSESSMENT LIEN FILING. A lien, lien**
26 **affidavit, or other instrument evidencing the nonpayment of**
27 **assessments or other charges owed to a property owners' association**
28 **and filed in the official public records of a county is a legal**
29 **instrument affecting title to real property.**

30 **SECTION 20. Subsection (a), Section 209.010, Property Code,**
31 **is amended to read as follows:**

1 (a) A property owners' association that conducts a
2 foreclosure sale of an owner's lot must send to the lot owner and to
3 each lienholder of record, not later than the 30th day after the
4 date of the foreclosure sale:

5 (1) [7] a written notice stating the date and time the
6 sale occurred and informing the lot owner and each lienholder of
7 record of the right of the lot owner and lienholder to redeem the
8 property under Section 209.011; and

9 (2) a copy of Section 209.011.

10 SECTION 21. Chapter 209, Property Code, is amended by
11 adding Section 209.014 to read as follows:

12 Sec. 209.014. MANDATORY ELECTION REQUIRED AFTER FAILURE TO
13 CALL REGULAR MEETING. (a) Notwithstanding any provision in a
14 dedicatory instrument, a board of a property owners' association
15 shall call an annual meeting of the members of the association.

16 (b) If a board of a property owners' association does not
17 call an annual meeting of the association members, an owner may
18 demand that a meeting of the association members be called not later
19 than the 30th day after the date of the owner's demand. The owner's
20 demand must be made in writing and sent by certified mail, return
21 receipt requested, to the registered agent of the property owners'
22 association and to the association at the address for the
23 association according to the most recently filed management
24 certificate. A copy of the notice must be sent to each property
25 owner who is a member of the association.

26 (c) If the board does not call a meeting of the members of
27 the property owners' association on or before the 30th day after the
28 date of a demand under Subsection (b), three or more owners may form
29 an election committee. The election committee shall file written
30 notice of the committee's formation with the county clerk of each
31 county in which the subdivision is located.

1 (d) A notice filed by an election committee must contain:

2 (1) a statement that an election committee has been
3 formed to call a meeting of owners who are members of the property
4 owners' association for the sole purpose of electing board members;

5 (2) the name and residential address of each committee
6 member; and

7 (3) the name of the subdivision over which the
8 property owners' association has jurisdiction under a dedicatory
9 instrument.

10 (e) Each committee member must sign and acknowledge the
11 notice before a notary or other official authorized to take
12 acknowledgments.

13 (f) The county clerk shall enter on the notice the date the
14 notice is filed and record the notice in the county's real property
15 records.

16 (g) Only one committee in a subdivision may operate under
17 this section at one time. If more than one committee in a
18 subdivision files a notice, the first committee that files a
19 notice, after having complied with all other requirements of this
20 section, is the committee with the power to act under this section.
21 A committee that does not hold or conduct a successful election
22 within four months after the date the notice is filed with the
23 county clerk is dissolved by operation of law. An election held or
24 conducted by a dissolved committee is ineffective for any purpose
25 under this section.

26 (h) The election committee may call meetings of the owners
27 who are members of the property owners' association for the sole
28 purpose of electing board members. Notice, quorum, and voting
29 provisions contained in the bylaws of the property owners'
30 association apply to any meeting called by the election committee.

31 SECTION 22. Subsection (a), Section 211.002, Property Code,

1 is amended to read as follows:

2 (a) This chapter applies only to a residential real estate
3 subdivision or any unit or parcel of a subdivision to which another
4 chapter in this title that provides a procedure under which a
5 subdivision's restrictions may for general purposes be amended does
6 not apply ~~[located in whole or in part within an unincorporated area~~
7 ~~of a county if the county has a population of less than 65,000]~~.

8 SECTION 23. Subchapter H, Chapter 221, Property Code, is
9 amended by adding Section 221.078 to read as follows:

10 Sec. 221.078. APPLICABILITY OF CERTAIN LAWS TO TIMESHARE
11 PROPERTY OR TIMESHARE ASSOCIATION. (a) The following provisions,
12 as added by S.B. No. 142, Acts of the 82nd Legislature, Regular
13 Session, 2011, do not apply to a timeshare property or timeshare
14 association:

- 15 (1) Section 51.002(i);
16 (2) Section 202.011;
17 (3) Section 202.012;
18 (4) Section 202.013; and
19 (5) Section 207.006.

20 (b) To the extent the following provisions apply to a
21 timeshare property or timeshare association, the provisions apply
22 only as the provisions existed immediately before the effective
23 date of S.B. No. 142, Acts of the 82nd Legislature, Regular Session,
24 2011, or any other Act of the 82nd Legislature, Regular Session,
25 2011:

- 26 (1) Section 5.012;
27 (2) Section 202.006;
28 (3) Sections 207.003(a), (b), and (c); and
29 (4) 211.002(a).

30 SECTION 24. (a) Subsection (a), Section 5.006, and
31 Subsection (c), Section 202.004, Property Code, as amended by this

1 Act, apply only to an action filed on or after the effective date of
2 this Act. An action filed before the effective date of this Act is
3 governed by the law in effect immediately before the effective date
4 of this Act, and that law is continued in effect for that purpose.

5 (b) Section 5.012, Property Code, as amended by this Act,
6 applies only to a sale of property that occurs on or after the
7 effective date of this Act. For the purposes of this subsection, a
8 sale of property occurs before the effective date of this Act if the
9 executory contract binding the purchaser to purchase the property
10 is executed before that date. A sale of property that occurs before
11 the effective date of this Act is governed by the law in effect
12 immediately before that date, and that law is continued in effect
13 for that purpose.

14 (c) Section 51.015, Property Code, as amended by this Act,
15 applies only to the levy of an assessment or assessments as
16 described by Section 51.015, Property Code, as amended by this Act,
17 the effective date of which is on or after the effective date of
18 this Act. A levy of an assessment or assessments the effective date
19 of which is before the effective date of this Act is governed by the
20 law as it existed immediately before the effective date of this Act,
21 and that law is continued in effect for that purpose.

22 (d) Section 202.006, Property Code, as amended by this Act,
23 and Sections 202.011, 202.012, and 209.0059 and Subsection (a),
24 Section 209.00591, Property Code, as added by this Act, apply to a
25 provision in a dedicatory instrument or a restrictive covenant
26 enacted before, on, or after the effective date of this Act, except
27 that any action taken before the effective date of this Act based on
28 an unfiled dedicatory instrument is not invalidated by Section
29 202.006, Property Code, as amended by this Act.

30 (e) Sections 207.003 and 209.005, Property Code, as amended
31 by this Act, apply only to a request for information received by a

1 property owners' association on or after the effective date of this
2 Act. A request for information received by a property owners'
3 association before the effective date of this Act is governed by the
4 law in effect immediately before the effective date of this Act, and
5 that law is continued in effect for that purpose.

6 (f) Subsection (m), Section 209.005, Property Code, as
7 added by this Act, applies only with respect to books and records
8 generated on or after the effective date of this Act. Books and
9 records generated before the effective date of this Act are
10 governed by the law in effect immediately before the effective date
11 of this Act, and that law is continued in effect for that purpose.

12 (g) Section 209.006, Property Code, as amended by this Act,
13 applies only to an enforcement action initiated by a property
14 owners' association on or after the effective date of this Act. An
15 enforcement action initiated before the effective date of this Act
16 is governed by the law in effect immediately before the effective
17 date of this Act, and that law is continued in effect for that
18 purpose.

19 (h) Section 209.0062, Property Code, as added by this Act,
20 applies only to an assessment or other debt that becomes due on or
21 after the effective date of this Act. An assessment or other debt
22 that becomes due before the effective date of this Act is governed
23 by the law in effect immediately before the effective date of this
24 Act, and that law is continued in effect for that purpose.

25 (i) Section 209.0063, Property Code, as added by this Act,
26 applies only to a payment received by a property owners'
27 association on or after the effective date of this Act. A payment
28 received by a property owners' association before the effective
29 date of this Act is governed by the law in effect immediately before
30 the effective date of this Act, and that law is continued in effect
31 for that purpose.

1 (j) Section 209.0091, Property Code, as added by this Act,
2 and Subsection (a), Section 209.010, Property Code, as amended by
3 this Act, apply only to a foreclosure sale conducted on or after the
4 effective date of this Act. A foreclosure sale conducted before the
5 effective date of this Act is governed by the law in effect
6 immediately before the effective date of this Act, and that law is
7 continued in effect for that purpose.

8 (k) Section 209.0093, Property Code, as added by this Act,
9 applies only to an instrument filed on or after January 1, 2012. An
10 instrument filed before January 1, 2012, is governed by the law in
11 effect on the date the instrument was filed, and that law is
12 continued in effect for that purpose.

13 (l) Section 209.014, Property Code, as added by this Act,
14 applies to a property owners' association created before, on, or
15 after the effective date of this Act.

16 SECTION 25. Not later than January 1, 2012, each property
17 owners' association shall present for recording with the county
18 clerk as prescribed by Section 202.006, Property Code, as amended
19 by this Act, each dedicatory instrument governing the association
20 that has not been previously recorded in the real property records
21 of the county.

22 SECTION 26. Not later than January 1, 2012, the Supreme
23 Court of Texas shall adopt rules of civil procedure under Section
24 209.0091, Property Code, as added by this Act.

25 SECTION 27. (a) Except as provided by Subsection (b) of
26 this section, this Act takes effect January 1, 2012.

27 (b) Subsection (b), Section 209.0091, Property Code, and
28 Section 221.078, Property Code, as added by this Act, take effect
29 September 1, 2011.

